

State of New Hampshire Banking Department

) Case No. : 08-069

In re the Matter of:

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State of New Hampshire Banking

)

) Order to Show Cause

Department,

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Petitioner,

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and

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London Star Financial Network Inc, and

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)

William A. Wallace, III,

)

)

Respondents

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NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A and RSA 541-A.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation and penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:18, the Department has the authority to issue a complaint setting forth charges whenever the Department is of the opinion that the licensee or person over whom the Department has jurisdiction is violating or has violated any provision of RSA Chapter 397-A, or any rule or order thereunder.

Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or rescind such orders as are reasonably necessary to comply with the provisions of the Chapter.

1 Pursuant to RSA 397-A:21, the Commissioner has the authority to
2 suspend, revoke or deny any license and to impose administrative penalties
3 of up to \$2,500.00 for each violation of New Hampshire banking law and
4 rules.

5 Pursuant to RSA 383:10-d, the Commissioner shall investigate conduct
6 that is or may be an unfair or deceptive act or practice under RSA 358-A and
7 exempt under RSA 358-A:3,I or that may violate any of the provisions of
8 Titles XXXV and XXXVI and administrative rules adopted thereunder. The
9 Commissioner may hold hearings relative to such conduct and may order
10 restitution for a person or persons adversely affected by such conduct. The
11 Commissioner may utilize all remedies available under the Consumer
12 Protection Act.

13 **NOTICE OF RIGHT TO REQUEST A HEARING**

14 The above named Respondents have the right to request a hearing on
15 this Order to Show Cause, as well as the right to be represented by counsel
16 at each Respondent's own expense. All hearings shall comply with RSA 541-A.
17 Any such request for a hearing shall be in writing, and signed by the
18 Respondent or the duly authorized agent of the above named Respondent, and
19 shall be delivered either by hand or certified mail, return receipt
20 requested, to the Banking Department, State of New Hampshire, 53 Regional
21 Drive, Suite 200, Concord, NH 03301. Such hearings will be scheduled within
22 10 days of the Department's receipt of the request. If the Respondent fails
23 to appear at the hearing after being duly notified, such person shall be
24 deemed in default, and the proceeding may be determined against the Respondent
25 upon consideration of the Order to Show Cause, the allegations of which may be

1 deemed to be true.

2 If any of the above named Respondents fails to request a hearing within
3 30 calendar days of receipt of such order or reach formal settlement with the
4 Department within that time frame, then such person shall likewise be deemed
5 in default, and the orders shall, on the thirty-first day, become permanent,
6 and shall remain in full force and effect until and unless later modified or
7 vacated by the Commissioner, for good cause shown.

8 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

9 The Staff Petition dated February 5, 2009 (a copy of which is attached
10 hereto) is incorporated by reference hereto.

11 **ORDER**

12 WHEREAS, finding it necessary and appropriate and in the public
13 interest, and consistent with the intent and purposes of the New Hampshire
14 banking laws, and

15 WHEREAS, finding that the allegations contained in the Staff Petition,
16 if proved true and correct, form the legal basis of the relief requested,

17 It is hereby ORDERED, that:

- 18 1. Respondent London Star Financial Network Inc ("Respondent
19 London Star") shall show cause why penalties in the amount of
20 \$7,500.00 should not be imposed against it;
- 21 2. Respondent William A. Wallace, III ("Respondent Wallace")
22 shall show cause why penalties in the amount of \$12,500.00
23 should not be imposed against him;
- 24 3. The above named Respondents shall show cause why, in addition
25 to the penalties listed in Paragraphs 1 through 2 above, the

1 \$2,570.00 examination fee for the December 26, 2006
2 examination should not be paid to the Department;

3 4. The above named Respondents shall show cause why, in addition
4 to the penalties listed in Paragraphs 1 through 3 above, the
5 \$500.00 examination fee for the May 19, 2008 examination
6 should not be paid to the Department;

7 5. The above named Respondents shall show cause why, in addition
8 to the penalties listed in Paragraphs 1 through 4 above, the
9 unpaid fine of \$375.00 for the late filing of the financial
10 statement should not be paid to the Department;

11 6. Respondents shall be jointly and severally liable for the
12 above amounts alleged in Paragraphs 1 through 5 above;

13 7. The above named Respondents shall show cause why, in addition
14 to the penalties listed in Paragraphs 1 through 6 above,
15 Respondent London Star's license should not be revoked.

16 It is hereby further ORDERED that:

17 8. Along with the administrative penalties listed for the above
18 named Respondents, the outstanding sum of \$3,445.00 shall be
19 immediately paid; and

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22 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
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9. Failure to request a hearing within 30 days of the date of receipt or valid delivery of this Order shall result in a default judgment being rendered and administrative penalties imposed upon the defaulting Respondent(s).

SIGNED,

Dated: 02/05/09

/s/
PETER C. HILDRETH
BANK COMMISSIONER

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 08-069
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State of New Hampshire Banking)
Department,) Staff Petition
)
Petitioner,) February 5, 2009
)
and)
)
London Star Financial Network Inc, and)
)
William A. Wallace, III,)
)
Respondents)

I. STATEMENT OF ALLEGATIONS

The Staff of the Banking Department, State of New Hampshire (hereinafter "Department") alleges the following facts:

Facts Common on All Counts:

1. Respondent London Star Financial Network Inc (hereinafter "Respondent London Star") was licensed as a Mortgage Broker from at least April 8, 2004 until it surrendered its license on May 12, 2008.
2. Respondent William A. Wallace, III (hereinafter "Respondent Wallace") was the 100% owner and President of Respondent London Star, when licensed by the Department.

December 26, 2006 EXAMINATION

Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to

Department Inquiries (1 Count):

3. Paragraphs 1 through 2 are hereby realleged as fully set forth

herein.

4. The Department conducted an examination of Respondent London Star on December 26, 2006, while Respondent London Star was still licensed with the Department.

5. On September 5, 2007, the Department mailed the report of examination and invoice for \$2,570.00 to Respondent London Star, via U.S. Certified Mail Return Receipt requested, which Respondents received on September 7, 2007.

6. The above named Respondents failed to respond to the September 5, 2007 correspondence from the Department.

7. The Department, via U.S. mail, mailed a second notice on November 1, 2007 and a third notice on December 7, 2007.

8. The above named Respondents did not respond to any of the three notices for payment of the \$2,570.00 invoice.

9. To date, the above named Respondents still owe the \$2,570.00 examination fee for the 5.14 day examination.

May 19, 2008 EXAMINATION

Violation of RSA 397-A:12,V Failure to Pay Examination Fee (1 Count):

Violation of RSA 397-A:13,VI Failure of Officer and Owner to Respond to Department Inquiries (1 Count):

10. Paragraphs 1 through 9 are hereby realleged as fully set forth herein.

11. The Department conducted an examination of Respondent London Star on December 26, 2006, for activities that occurred while Respondent London Star was still licensed with the Department.

1 12. On August 5, 2008, the Department mailed the report of examination
2 and invoice for \$500.00 to Respondent London Star, via U.S.
3 Certified Mail Return Receipt requested, which Respondents
4 received on August 12, 2008.

5 13. The above named Respondents failed to respond to the August 5,
6 2008 correspondence from the Department.

7 14. The Department, via U.S. mail, mailed a second notice on September
8 8, 2008 and a third notice on October 9, 2008.

9 15. The above named Respondents did not respond to any of the three
10 notices for payment of the \$500.00 invoice.

11 16. To date, the above named Respondents still owe the \$500.00
12 examination fee for the one day examination.

13 **Violation of RSA 397-A:13, IV Failure to Pay Late Penalty Owed for Late**

14 **Filing of Financial Statement(1 Count):**

15 17. Paragraphs 1 through 16 are hereby realleged as fully set forth
16 herein.

17 18. On January 24, 2008, the Department submitted reminder letters
18 that financial statements were due no later than 90 days after a
19 licensee's fiscal year end of December 31, 2007. Consequently,
20 the financial statement would be due on or before March 31, 2008.

21 19. On April 9, 2008, the Department mailed a letter to Respondent
22 London Star, indicating the financial statement had not been
23 received and a \$25.00 a day fine was accruing.

24 20. On April 15, 2008, the Department received Respondent London
25 Star's financial statement, which generated an invoice for

1 \$375.00 (\$25.00 a day x 15 days).

2 21. On April 17, 2008, the Department invoiced the above named
3 Respondents for \$375.00.

4 22. To date, the Department has not received the \$375.00 payment owed
5 for the late filing of a financial statement.

6 **II. ISSUES OF LAW**

7 The staff of the Department, alleges the following issues of law:

8 1. The Department realleges the above stated facts in Paragraphs 1
9 through 22 as fully set forth herein.

10 2. The Department has jurisdiction over the licensing and regulation
11 of persons engaged in mortgage banker or broker activities
12 pursuant to NH RSA 397-A:2 and RSA 397-A:3.

13 3. RSA 397-A:12,V provides that the expense of such examination shall
14 be chargeable to and paid by the licensee. Each of the above
15 named Respondents violated this provision on at least two
16 occasions as alleged above. To date, the above named Respondents
17 have failed to pay the total of \$3,070.00 for two examination
18 invoices.

19 4. RSA 397-A:13,IV provides that any mortgage banker or mortgage
20 broker failing to file either the annual report or the financial
21 statement required by RSA Chapter 397-A within the time
22 prescribed may be required to pay to the Department a penalty of
23 \$25.00 for each calendar day the annual report or financial
24 statement is overdue, up to a maximum penalty of \$2,500.00 per
25 report or statement. Each of the above named Respondents violated

1 this provision on at least one occasion as alleged above. The
2 above named Respondents filed a financial statement, that was
3 fifteen days late, and incurred a penalty of \$375.00.

4 5. RSA 397-A:13,VI provides that any officer, owner, manager or agent
5 of any licensee shall reply promptly in writing, or other
6 designated form, to any written inquiry from the Department.
7 Respondent Wallace violated this provision on at least two
8 occasions as alleged above.

9 6. RSA 397-A:17,I provides in part that the Commissioner may by
10 order, upon due notice and opportunity for hearing, assess
11 penalties or deny, suspend, or revoke a license or application if
12 it is in the public interest and the applicant, respondent, or
13 licensee, any partner, officer, member, or director, any person
14 occupying a similar status or performing similar functions, or
15 any person directly or indirectly controlling the applicant,
16 respondent, or licensee: (a) has violated any provision of RSA
17 Chapter 397-A or rules thereunder, or (b) has not met the
18 standards established in RSA Chapter 397-A.

19 7. RSA 397-A:18,I provides that the Department may issue a complaint
20 setting forth charges whenever the Department is of the opinion
21 that the licensee or person over whom the Department has
22 jurisdiction, has violated any provision of RSA 397-A or orders
23 thereunder.

24 8. RSA 397-A:21,IV provides that any person who, either knowingly or
25 negligently, violates any provision of Chapter 397-A, may upon

1 hearing, and in addition to any other penalty provided for by
2 law, be subject to an administrative fine not to exceed
3 \$2,500.00, or both. Each of the acts specified shall constitute
4 a separate violation, and such administrative action or fine may
5 be imposed in addition to any criminal penalties or civil
6 liabilities imposed by New Hampshire Banking laws.

7 9. RSA 397-A:21,V provides that every person who directly or
8 indirectly controls a person liable under this section, every
9 partner, principal executive officer or director of such person,
10 every person occupying a similar status or performing a similar
11 function, every employee of such person who materially aids in the
12 act constituting the violation, and every licensee or person acting
13 as a common law agent who materially aids in the acts constituting
14 the violation, either knowingly or negligently, may, upon notice
15 and opportunity for hearing, and in addition to any other penalty
16 provided for by law, be subject to suspension, revocation, or
17 denial of any registration or license, including the forfeiture of
18 any application fee, or the imposition of an administrative fine
19 not to exceed \$2,500, or both. Each of the acts specified shall
20 constitute a separate violation, and such administrative action or
21 fine may be imposed in addition to any criminal or civil penalties
22 imposed.

23 **III. RELIEF REQUESTED**

24 The staff of the Department requests the Commissioner take the following
25 action:

1. Find as fact the allegations contained in section I of this Staff
Petition;
2. Make conclusions of law relative to the allegations contained in
section II of this Staff Petition;
3. Pursuant to RSA 397-A:17, order each of the above named
Respondents to show cause why their license should not be revoked;
4. Assess fines and administrative penalties in accordance with RSA
397-A:21, for violations of Chapter 397-A, in the number and amount
equal to the violations set forth in section II of this Staff
Petition; and
5. Take such other administrative and legal actions as necessary for
enforcement of the New Hampshire Banking Laws, the protection of
New Hampshire citizens, and to provide other equitable relief.

IV. RIGHT TO AMEND

The Department reserves the right to amend this Staff Petition and to
request that the Commissioner take additional administrative action.
Nothing herein shall preclude the Department from bringing additional
enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

/s/
Maryam Torben Desfosses
Hearings Examiner

02/05/09
Date